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THE INTERIM

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LEGISLATIVE FINANCE COMMITTEE

New Staff Director Named...The Legislative Finance Committee selected Teresa Olcott Cohea as the new Legislative Fiscal Analyst and heard several staff reports during its meeting on Jan. 26 and 27. Ms. Cohea, who has extensive experience in both legislative and executive branches of Montana state government, will assume her new duties on Feb. 9.

Montana State Prison Construction Projects' Status...Reports were heard on the four construction projects at the Montana State Prison that were authorized in HB 777 which allowed the use inmate labor and waived the requirement of putting the work out for bids. The major project is the construction of the 96-bed housing unit. Construction was begun on three of the projects early in the fiscal year, and the anticipated completion date for the housing unit is September 1990. A lawsuit was filed in district court in Helena on Dec. 17, 1989, asking that the project be stopped and the Department of Administration be required to call for bids on the work. The plaintiffs allege in their complaint that the title of HB 777 filed to menttion the use of inmate labor and question whether language in an appropriation bill can be used to override statutory language. Final briefs and arguments are scheduled to be presented by Feb. 8, after which the court will have 90 days to deliver its decision.

Federal Mineral Royalty Income...The Committee asked the staff to report at the next meeting on the fiscal impacts of pending federal rule changes relating to federal mineral royalties. These proposed

changes eliminate certain deductions in the computation of royalties paid on minerals produced from federal lands. Montana receives 50 percent of the net royalty income from minerals produced on federal lands and allocates that revenue to public school support.

JOINT INTERIM SUBCOMMITTEE ON MARKETING OF MOTOR FUELS

Motor Fuels Pricing Study...At the Jan. 20 meeting of the Legislative Council, House Joint Resolution No. 12 was designated as an interim study to be conducted by an appropriate interim subcommittee. HJR 12 calls for a study of the pricing of motor fuels and of motor fuel franchising practices. Speaker John Vincent and the Senate Committee on Committees will appoint the members of the Joint Interim Subcommittee on Marketing of Motor Fuels: four from each house, evenly divided between the parties. Paul Verdon, Legislative Council researcher, is the lead staffer for the study committee. Questions regarding the study can be directed to him at the Legislative Council.

INTERIM SUBCOMMITTEE ON ADULT AND JUVENILE DETENTION

Jail Survey...The Joint Interim Subcommittee on Adult and Juvenile Detention is currently conducting a statewide survey of all jails and detention facilities in Montana. The survey questionnaire has been sent to all 56 counties and to five cities that each currently operates a municipal jail facility. The purpose of the survey is to collect data on the current status of municipal and county detention in Montana, as required by SJR 23. Information collected from the survey will be used by the Subcommittee to determine current jail and detention problems in the state and to assess the current and future need for adult and juveniles detention services. The survey consists of two parts--a "General Information" survey and a "Jail Population" survey. The General Information survey includes 41 questions relating to the number and type of jails in the state; the age and physical condition of local jails; overcrowding of jail facilities; safety and health issues; the number of lawsuits and court actions involving local jails; the jailing of juveniles in adult facilities; and other

aspects pertinent to the interim study on detention. The Jail Population survey is chiefly designed as a census of all adults and juveniles arrested or held in jail during a selected survey period. Data that will be collected includes the number of persons arrested or held in jail according to offense, and the number of adult jail inmates awaiting trial or disposition of their cases and the number of inmates serving a sentence or convicted of a crime. The Jail Population survey will also collect information on the number of inmates held in jail who are prisoners from another jurisdiction and the daily charge for holding such prisoners. The survey was reviewed and endorsed, with some revisions, by the Board of Directors of the Montana Sheriffs and Peace Officers Association and the staff of the Board of Crime Control, who assisted in the development of the survey. Results of the survey, together with an analysis of problems and issues identified in the survey, will be reported to the Subcommittee at its next meeting.

Other Research...Research projects are currently exploring issues and possible options for addressing current jail problems including: (1) work to determine the ability of loclal governments to finance jail projects; (2) a review of other states' compliance with federal mandates on the removal of juveniles from adult jails; and (3) research into other state approaches to alleviating jail overcrowding and funding local government jail programs.

Future Meetings...The next meeting of the Subcommittee is scheduled on March 8 in Choteau and March 9 in Great Falls. Plans for these meetings include presentation of results from the jail survey and tours of the Teton County and Cascade County jails. Future two-day meetings are being planned that will include tours of the Yellowstone County, Carbon County, and Custer County jails.

LEGISLATOR'S INCOME TAX PROVISIONS

Benefits on Legislative Per Diem...Legislators can benefit from federal income tax provisions on the deduction of legislative per diem. Internal Revenue Code section 162(h) allows legislators who live more than 50 miles from the Capitol to deduct the federal per diem rate per legislative day for living expenses without having to stay overnight (the legislator is considered to have stayed overnight) away from

home and without keeping substantiating records (the legislator is considered to have expended the federal per diem amount). A legislator is paid a $50 per diem under 5-2-301, MCA, but Appendix A, of 41 Code of Federal Regulations Chapter 301, sets the federal per diem rate at $66 for all of Montana except Great Falls, which is $67 per day.

Legislative Day Defined...A legislative day, for the purposes of this law, encompasses attendance at legislative interim hearings and meetings as well as participation while the legislature is in session. A legislator, whether on an interim committee or not, if formally recorded as having attended an interim committee meeting, may claim a $66 expense for attending it.

Memorandum of Details...A memorandum has been prepared that details the federal provision and provides necessary dates and amounts that a legislator's tax advisor must have to complete the legislator's federal income tax return.

COMMITTEE ON INDIAN AFFAIRS

Reservation Taxation to Be Issue...The Committee on Indian Affairs will meet Thursday, Feb. 15, at 10 a.m. in Room 104 of the Capitol to explore issues concerning taxation on Montana Indian reservations. Professor Marge Brown, University of Montana School of Law, will present a overview of tribal and state taxing authority. The Department of Revenue will also report on state taxation on the reservations. Committee staff will present a brief summary of tribal taxes. Tribal officials have also been invited to discuss their tax programs.

COMMITTEE ON STATE EMPLOYEE COMPENSATION

Views of State Employees Sought...State employees are invited to express their views Feb. 8 on their own compensation system to the Committee on State Employee Compensation. The purpose of the meeting is to begin identifying problems associated with the state compensation system. Members will convene for a work session at

1 p.m. in Room 104 of the Capitol. Staff will present the preliminary results of an employee problem identification survey. The Committee will also hear comments from agency directors on compensation issues. The afternoon session will end at 4:30 p.m., and the committee will reconvene in the former Supreme Court room (Room 325) in the Capitol for a public hearing at 7 p.m. when the Committee will solicit comments until 9 p.m. The Committee was authorized by House Bill No. 786 of the 1989 regular session which directs the Committee to examine policies governing state employee compensation, assess various components of the compensation system, and report its findings and recommendations to the Governor and the 1991 Legislature.

JOINT LEGISLATIVE COMMITTEE ON ACCOUNTABILITY AND QUALITY IN EDUCATION

Second Meeting Held...The second meeting of the Joint Legislative Committee on Accountability and Quality in Education began with a breakfast hosted by the Montana School Boards Association, the School Administrators of Montana, and the Montana Education Association. Following the breakfast, Dr. David Smith, Dean of the College of Education at the University of Florida, spoke on the topic of education reform.

Reports Presented on Governor's Forums...The Committee heard reports from Wayne Phillips of the Governor's Office and Superintendent of Public Instruction Nancy Keenan on the progress of the Governor's Forums on Education. Superintendent Keenan presented some preliminary data on the three forums that had been held at that time. The average attendance at the forums was around 325. Roughly 60% of the participants were directly involved in education (trustees, administrators, teachers, and other school employees). About 55% of the participants had children in Montana public schools. In grading their local schools and Montana schools, participants overwhelming gave the schools an "A" or a "B". Both Phillips and Keenan stated that the major discussion at the forums was on local issues. They both stressed the value of the forums in bringing people together to talk about their schools and to communicate with their local trustees. The Governor wants a final

report on the forums by the end of February in time for the next meeting of the National Governors' Association.

Teacher Education and Certification...Claudette Morton, Executive Secretary of the Board of Public Education, spoke on teacher education and certification in Montana. Teacher education programs in Montana are required to provide beginning teachers with the skills, concepts, and competencies they need for certification to teach. These same skills, concepts, and competencies now match the new program standards for school accreditation currently being implemented in Montana. This relationship between teacher education and school accreditation is unique in the United States.

Staff Papers...Staff presented two brief background papers on alternative certification and performance accountability systems (school report cards). The papers outlined some options for the committee and offered questions that need to be considered if either of the proposals are implemented. Interested persons and organizations offered testimony on both issues.

Topics Announced for March 23 Meeting...At the next meeting on Friday, March 23, the committee will hear presentations and take public testimony on the issues of parental choice, teacher incentives, and local control/elimination of regulations.

LEGISLATIVE OVERSIGHT COMMITTEE ON SCHOOL FUNDING IMPLEMENTATION

Supreme Court Order's Effective Date Delayed...The first topic discussed at the meeting of the Legislative Oversight Committee on School Funding Implementation on Jan. 12 was the Jan. 4 order of the Montana Supreme Court in which the court delayed the effective date of its Feb. 3, 1989, ruling to July 1, 1991, limited the findings to that opinion, and declined to retain jurisdiction or remand it to district court. The order did not specifically address funding equity or constitutional issues regarding school transportation, school facilities, House Bill 28, or other questions raised for oral argument since the 1989 ruling. A spokesperson for the plaintiff districts stressed that his clients view the ruling of unconstitutionality as pertaining to the education system as a whole and if the issues remaining before the Oversight Committee are not addressed by the Legislature, another

law suit may be filed after July 1991. The committee voted unanimously to continue study of the issues of capital outlay and transportation in order to make recommendations to the next legislature.

Equalization Concept Aired...Madalyn Quinlan of the Legislative Fiscal Analyst's staff presented a report entitled "The State's Role in Equalizing School Facility Funding and Expenditures." Following discussion on the various study directions detailed in the report, the committee voted to pursue the options characterized as "maximum state participation rates" and a "foundation program for school facilities", both incorporating the concept of equalization distribution to "classroom units".

Transportation, Telecommunications Topics...Andrea Merrill, Legislative Council staff researcher, and Jan Thomson, OPI, reviewed a joint report on "School Transportation Laws and Issues." John Aubry, Department of Administration, reported on efforts to fulfill the requirements of the HB 28 appropriation for an educational telecommunications consultant and telecommunications network. A consulting consortium with similar recent experience in Oregon has been engaged to evaluate the present systems in the state and examine network options.

Courses via Computer-Phone...During lunch, the committee heard a presentation on distance learning by Paul Dorrance and Lee Holmes, Helena High teachers who created EDUNET, a non-profit organization offering education courses via a computer-phone network.

Rules Reviewed...Terry Cohea, OPI, reviewed the proposed OPI rules on the: calculation and distribution of the guaranteed tax base in HB 28; spending and reserve limits; and school levies. Dori Nielson, OPI, explained proposed rules on the calculation of average number belonging, necessitated by other legislation in the 1989 session. Both areas of rulemaking are scheduled for public hearing Feb. 8, and implementation on March 16. OPI is also developing rules for implementation of GAAP accounting in the districts and has planned various training options for district and county personnel.

ENVIRONMENTAL QUALITY COUNCIL

Agricultural Chemical Problems... Ground water quality management and protection and solid waste management were the topics of discussion at the Jan. 15 and 16 meeting of the Environmental Quality Council. Ground water quality and agricultural chemicals was discussed by a panel including representatives of the Department of Agriculture, Montana Graingrowers, Gallatin County Weed District, Alternative Energy Resources Organization, and Montana Agri-Business Association, and a farm producer implementing sustainable agricultural techniques. The 1989 Agricultural Chemical Ground Water Protection Act is an important step toward addressing contamination concerns but all of the panelists felt that more funding support is necessary to properly implement the bill and to obtain ground water monitoring data. The EQC requested additional staff research concerning alternative funding mechanisms for ground water programs.

Remedies for Ground Water Deficiencies...A progress report concerning efforts of the Ground Water Data Task Force to develop a proposed plan for remedying ground water data deficiencies included defining the scope of a baseline ground water monitoring network and an aquifer assessment program.

Solid Waste Priority Issues...Selected for the solid waste management study are six priority issues including: (1) barriers to regional waste disposal; (2) interstate importation of solid waste; (3) the need for an updated state solid waste management plan; (4) new Environmental Protection Agency regulations that will apply to the management and operation of landfills; (5) funding options to support solid waste management programs; and (6) management of special categories of waste such as medical waste and certain types of hazardous wastes. Special presentations included EPA regulations, regional approaches to solid waste management, and Public Service Commission permitting of Class D haulers of solid waste. At its meeting on Jan. 26 the EQC's Solid Waste Management Advisory Council continued its work on these issues as well on as interstate waste importation.

Other Topics...Reviewed was the Department of Health and Environmental Sciences' plan to reorganize the Environmental Sciences Division and create a new Solid and Hazardous Waste

Management Division to administer the solid and hazardous waste programs and the underground storage tank program. Other agenda items included reviews of the status of the Montana National Guard's proposal for military training exercises in Valley County, the Board of Investments request for an Attorney General's opinion on the applicability of MEPA to its funding decisions, the partial consent decree for the Burlington Northern's Livingston site, and sewage disposal issues at the Church Universal and Triumphant's property near Gardiner.

March 9 Meeting Date Chosen...The next meeting of the Environmental Quality Council will be at 8 a.m. on Friday, March 9, in Room 108 of the Capitol.

JOINT SELECT COMMITTEE ON WORKERS' COMPENSATION

March 2 Is Next Meeting Date...A discussion by John Lacey of Denver, western representative of the National Council on Compensation Insurance, will be the principal item on the agenda of the Joint Select Committee on Workers' Compensation at its meeting at 10 a.m. Friday, March 2, in Room 104 of the Capitol. Lacey will explain the functions of the NCCI in recommending the rate structure for Workers' Compensation Plan No. 3, the State Fund, and will give his organization's perspective on the problem of the State Fund's unfunded liability. The committee will also be updated by the Department of Labor and Industry and the State Compensation Mutual Insurance Fund on the progress of implementation of SB 428, the 1989 legislation separating the State Fund from the Department of Labor and Industry.

WATER POLICY COMMITTEE

Meeting Planned Feb. 23...The Water Policy Committee will meet Friday, Feb. 23, in room 104 of the Capitol. Scheduled agenda items include an update of the state water plan focusing on drought management and storage; a progress report on water leasing (HB 707); and continued discussion of state/federal water relations. The latter issue will include presentations on federal and Indian reserved rights, water development, and hydropower licensing.

REVENUE OVERSIGHT COMMITTEE

Forest Taxation on Feb. 9 Agenda... A public hearing on forest taxation systems will be the lead item on the agenda for the meeting of the Revenue Oversight Committee on Friday, Feb. 9, in Room 104 of the Capitol. The primary purpose of the hearing is to solicit comments on the advisability of implementing a productivity tax on forest lands in Montana. The Committee will also accept comments about other methods of forest taxation.

Department of Revenue Reports...The Department of Revenue will report on the public hearings being conducted around the state on proposed rules relating to area designations for sales assessment ratio studies and on a public hearing the Department held to explain the expanded applicability of the telephone license tax.

Other Items on the Agenda...The Legislative Fiscal Analyst will report on the revenue estimating procedure for earnings on investments from the coal tax trust fund, general fund investments, and public school interest and income. The Office of Public Instruction will present its proposed rules for implementing the guaranteed tax base for public school funding. Jeff Martin, Committee staff researcher, will present a preliminary evaluation of the sales tax data base developed for the 1989 Legislature. Rep. Dan Harrington will report on the fiscal chairs seminar he attended in early January.

LEGISLATIVE COUNCIL

LEGAL DIVISION

Legal Memorandums

¶ Requirement That Travel Reimbursement be Made on PPP System

¶ A Legislator's Deduction of Living Expenses for Federal Income Tax Purposes

¶ The Nature of the State Compensation Mutual Insurance Fund and the Fund's Authority to Issue Revenue Bonds

Initiative Proposals

Pursuant to 13-27-202(2), MCA, copies of correspondence are available from the Secretary of State

¶ Revised Fully Informed Jury

¶ Revised Cigarette Tax for Smoking Education

¶ Revised Require Elections on Taxes

RESEARCH DIVISION

Research Reports

¶ Taxation on Montana Indian Reservations

¶ School Transportation Laws and Issues

INTERIM CALENDAR

Feb. 8, Committee on State Employee Compensation, 1 p.m., Room 104; 7 p.m, old Supreme Court room (room 325)

Feb. 9, Revenue Oversight Committee, Room 104

Feb. 15, Committee on Indian Affairs, Room 104

Feb. 16, Legislative Finance Committeee, Post-Secondary Education.

Feb. 23, Water Policy Committee, Room 104

Feb. 26, Legislative Audit Committee, Room 104

March 2, Joint Select Committee on Workers' Compensation, Room 104, 10 a.m.

March 2, EQC Solid Waste Task Force, Room 108

March 8, Interim Subcommittee on Adult and Juvenile Detention in Choteau

March 9, Interim Subcommittee on Adult and Juvenile Detention in Great Falls

March 9, Legislative Oversight Committee on School Funding

March 9, Environmental Quality Council, Room 108, 8 a.m.

March 23, Joint Legislative Committee on Accountability and Quality in Education, Room 104

March 29, Committee on State Employee Compensation

April 2, Coal Tax Oversight Subcommittee, Room 104, 9 a.m.

April 12, Committee on Indian Affairs, Room 104

April 13, Revenue Oversight Committee, Room 104

May 10, Committee on State Employee Compensation

May 19, Joint Legislative Committee on Accountability and Quality in Education, Room 104

June 14, Committee on Indian Affairs, Room 104

June 15, Revenue Oversight Committee, Room 104

June 28, Committee on State Employee Compensation

Aug. 23, Committee on Indian Affairs, Room 104

Aug. 30, Committee on State Employee Compensation

Sept. 7, Revenue Oversight Committee, Room 104

Sept. 7, Joint Legislative Committee on Accountability and Quality in Education, Room 108

Oct. 4, Committee on Employee Compensation

Oct. 6, Joint Legislative Committee on Accountability and Quality in Education, Room 104

Oct. 11, Committee on Indian Affairs, Room 104

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